

PATENT  
09/888,309  
Docket 090/002

### REMARKS

This paper is responsive to the Office Action dated August 11, 2004, which is the second action on the merits of the application. The Action has been made final.

Claims 23-47 are pending in this application, with claims 34-46 under examination. An after-final amendment was filed December 13, 2004, but was not entered into the file. The amendments presented above is a simplified version of the amendments proposed on December 13.

The undersigned is grateful to the Examiner for her thorough consideration of the previous after final amendment, and the detailed commentary provided in the Advisory Action dated January 18, 2005.

The amendments shown above are believed to be suitable for entry into the file, because they resolve the antecedent issues referred to in Part 2 of the Advisory Action. No new issues are raised. Applicant respectfully submits that the new wording of claim 35 has inherent support in the differentiation of hES cells to neurons described throughout the specification (e.g., Examples 2 and 5). Even if the Examiner disagrees, no new issue is raised, because the claims already stand rejected for claiming new matter.

The amendments place the claims in better condition for appeal, because the last Office Action (August 11, 2004) indicates concern about the meaning of the term "system". Claim 34 as amended explicitly defines the scope of the claimed system by the use of the phrase "consisting of". Claim 35 as amended eliminates the term "system" entirely.

Because these amendments at least help resolve the question raised as to the meaning of the word "system", the amendments place the application in better condition for appeal. The amendments were not previously presented because the undersigned was not previously aware of the issues raised in the Advisory Action.

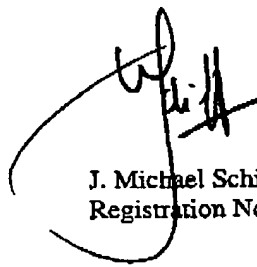
Furthermore, entering this amendment places two alternative claim wordings before the Board that cover of hES cells in combination with hES derived neuronal cells. This will enable the Board to make instructive rulings on both potential wordings, to the benefit of the applicant and the examiners in Group 1632.

Since the amendments place the application in better condition for appeal, entry of the amendment into the file pursuant to 37 CFR § 1.116(b) is respectfully requested.

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Should the Patent Office determine that a further extension of time or any other relief is required for further consideration of this application, applicant hereby petitions for such relief, and authorizes the Commissioner to charge the cost of such petitions and other fees due in connection with the filing of these papers to Deposit Account No. 07-1139, referencing the docket number indicated above.

Respectfully submitted,



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